

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DROPLETS, INC.,

Plaintiff,

v.

**OVERSTOCK.COM, INC.,
SEARS ROEBUCK & CO.,
SEARS BRANDS LLC,
SEARS HOLDINGS CORPORATION,**

Defendants.

Civil Action No. 2:11-cv-401

JURY TRIAL

JOINT SUBMISSION OF PRELIMINARY JURY INSTRUCTIONS

Plaintiff Droplets, Inc. (“Droplets”) and Defendants Overstock.com, Inc. (“Overstock”), Sears Roebuck & Co., Sears Brands LLC, Sears Holdings Corporation (collectively “Sears”) (“Defendants”) hereby submit their joint proposed preliminary jury instructions.

Attached as **Exhibit A** hereto is Droplets’ and Defendants’ Joint Proposed Preliminary Jury Instructions, with bracketed and highlighted individual proposals and footnoted objections and comments.

The parties reserve the right to amend, supplement, or modify these proposed preliminary jury instructions as the case proceeds toward the final pretrial conference and trial, and as the parties continue to meet and confer regarding the proposed preliminary instructions in an attempt to further remove disputed issues. Additionally, the parties do not waive any objections to issues that are the subject of pending or anticipated motions, including *Daubert* motions, motions to strike, motions for summary judgment, and motions *in limine*. Further, by submitting these

proposed preliminary jury instructions, the parties do not waive their rights to object to the submission or form of any questions ultimately submitted to the jury.

Dated: December 3, 2014.

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/s/ Joshua W. Budwin

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CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record via the Court's ECF system on December 3, 2014.

/s/ Jennifer Albert

Jennifer Albert